

THE CAPE SABLE COMPANY'S CASE.

An action of assumpsit may be sustained against a corporation founded on its acts done within the legitimate purposes of its institution.—No authority to appear to an action against a body politic can be given unless it appears to have been given by the president as under its proper corporate name.—Where the incorporating legislative enactment requires the assent of three-fourths of the stockholders to make a contract or mortgage, it will be deemed void unless such assent be shewn; and the confession of a judgment to secure a debt is an encumbrance which requires such an assent within the meaning of such a provision in the incorporating enactment.—Where, on a bill filed against a corporation, it is admitted to be in a condition of absolute insolvency, it may be thenceforward proceeded on as a creditor's suit, a decree passed, directing all the property of the body politic to be sold, and notice to be given to its creditors to bring in their claims.—A body politic may have a local habitation; and should be sued in the county in which it is located.—Although by declaring, that the property of a corporation shall be held as real estate, and descend as such, its personalty must be so treated as regards the stockholders, it does not follow that it must be so considered in all other respects. A co-partnership may be dissolved by some of its members becoming, as to the same purposes as the partnership, a body politic under an act of incorporation.

No bond is required in certain cases on the granting of an injunction to stay execution at law.—Where there are two or more defendants the injunction will not, in general, be dissolved on motion until all of them have answered.—Where a claim, in a creditor's suit, has been put in issue and established between the proper parties, it cannot be called in question by any other creditor who may come in thereafter.

The nature of poundage fees allowed to the sheriff on an execution; the mode in which they may be recovered; and the grounds upon which the sheriff may obtain relief in equity.—Where by a decree, passed with consent, real and personal property upon which an execution had been levied, is taken from the sheriff and sold, without discrimination, his poundage fees will be allowed for the whole debt, first on the whole appraised value of the personalty, and for the residue on the realty.

Where the lien of a judgment has expired, by lapse of time, it cannot be revived so as to overreach a lien which has attached during the time of such lapse.—The lien of a judgment upon land being an incident of its liability to be taken in execution under such judgment, there can be no lien where there is no direct or indirect mode of having an execution, founded on such judgment, levied upon such land.—But now and here, the judgments and decrees of the county courts, the Court of Chancery, and the Court of Appeals, give a lien upon the lands of the defendant every where within the state.—A citizen can only be sued or arrested by civil process in the county in which he resides; but may be taken by an attachment from the High Court of Chancery any where within the state.

THIS bill was filed on the 4th of January, 1823, by *Addison Ridout, Joseph Jubere, John J. Gibson, Ann O. Gibson, John L. Tilghman* and *Maria E.* his wife, and *Horatio Gibson*, against *The Cape Sable Company, Richard Caton, Robert Oliver* and *John Oliver*. This bill sets forth, that these plaintiffs had, on the sixth of August, 1822, filed a bill in this court against these